IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO: 27301 of 2003

Between:

S.Subhan, S/o.S.Fakruddin, Ex-Driver
R/o.9/378, Islampuram, Pulivendla, Cuddapah District.

... PETITIONER

AND

1 The A.P.S.R.T.C., Represented by its Chairman and Managing Director,

Musheerabad, Hyderabad.
2 The A.P.S.R.T.C., Represented by its Regional Manager, Cuddapah Region,

Cuddapah District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an Order or direction or Writ particularly one in the nature of Writ of Mandamus declaring the action of the respondents instead of reinstating the petitioner into his service as Driver Gr-III afresh, as per Orders and Circulars issued by the respondents by its Proceedings No. E6/684(4)/00-RM'C', dt. 20-8-00, the 2nd Respondent has passed an Impugned Order by its Proceedings No.SP(R). 6876(1)/2003-RM'C', DT. 28/3/03 is wholly illegal, arbitrary, unjust and contrary to Law and discrimination and bias and violative of Art. 14, 16 and 21 of the Constitution of India and consequently direct the respondents to reinstate the petitioner into his service as Driver Gr.III with continuity of service and with full back wages and with all other attendant benefits.

Counsel for the Petitioner: MS.B.MALLESWARI

Counsel for the Respondent No.: MR.P.VINAYAKA SWAMY

The Court made the following Order:

ORDER:

This Writ Petition is filed seeking Writ of Mandamus declaring the action of the 2nd respondent in passing proceedings No.SP(R)/6876(1)/2003, dated 28-03-2003, instead of reinstating the petitioner into service as Driver Gr-III afresh, as illegal, arbitrary and discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India.

2. The case of the petitioner is that he worked as a driver in the respondent corporation. It is submitted that when the 2nd respondent conducted recruitment for the post of Drivers Gr-III in Cuddapah Region, in the year 1996, the petitioner was engaged as Driver Gr-III on daily wages basis with effect from 11-04-1996. While he was working as Driver Gr-III he was removed from service by the Depot Manager, Jammalamadugu Depot by his proceedings No.E2/255(1)/97-JMD, dated 24-06-1997 on the ground that the driving licence produced by the petitioner was found to be non-genuine.

3. It is further submitted that the second respondent has conducted recruitment of for the drivers removed from service for being in possession of non-genuine driving licenses in Cuddapah region only, by advising them to obtain fresh H.M.V Driving licence for being considered for fresh appointment against further vacancies of drivers in Cuddapah region. It is further submitted

that petitioner submitted his application as per the recruitment conducted by the respondents, by producing genuine driving licence within cut of date given by the respondents i.e. on 27-11-2001. The case of the petitioner is that, though he made a number of representations to the second respondent to reinstate him into service as Driver Gr-III, second respondent did not respond to the said representations. Aggrieved thereby, the petitioner herein approached this Court in W.P.No.24852 of 2002 and the same was disposed of by an order dated 06-01-2003 with a direction to consider and dispose of the case of the petitioner expeditiously. The case of the petitioner is that second respondent instead of reinstating him into service as driver Gr-III, passed the impugned order by proceedings No.SP (R)/6876(1)/2003, dated 28-03-2003. Aggrieved thereby, the petitioner filed the present Writ Petition.

4. Learned counsel for the petitioner submits that in similar circumstances, the persons who were also removed on par with the petitioner approached the Labour Court, Anantapur by challenging the removal order. The Labour Court, Anantapur has passed an award on 05-10-2001 in I.D.No.286/97 basing on the circular bearing No.PD/43/2000, dated 11-08-2000 pertaining to the recruitment that if a driver who was removed from service, produced genuine driving licence, his case can be considered for appointment. It is further submitted that under the very same issue, the petitioner has approached this Court for seeking reinstatement basing on the same circular P.D.No.43/2000, dated 11-08-2000 and order dated 28-08-2000, but instead of reinstating the petitioner into service, the respondents have passed an order stating that petitioner's case will be considered against future vacancies whenever recruitment is conducted to the post of Drivers in Cuddapah Region.

5 . Counter is filed stating that respondents have absolutely no objection to consider the case of the petitioner strictly in accordance with the proceedings of the Regional Manger,

Cuddapah, dated 28-03-2003, but the order of this court is to the effect that unless the petitioner is appointed, no other person shall be recruited, amounts to giving preferential treatment to the petitioner, as there are 121 casual drivers presently engaged on temporary basis. It is further submitted that the petitioner was appointed as driver and his services were terminated as he produced a fake driving license, but however, he was re-engaged on subsequently obtaining genuine certificate and therefore his case would be considered as per the said proceedings dated 28-03-2003 alone and that there is no panel of drivers except 121 casual drivers who are engaged temporarily at the depots against absenteeism.

6. Having regard to the facts and circumstances of the case, the respondents are directed to consider the application of the petitioner and dispose it of expeditiously as per the proceedings of the Regional Manager, Cuddpah, dated 28-03-2003.

The Writ Petition is disposed of accordingly. No order as to costs.

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(V. ESWARAIAH, J)

August 16, 2004

MRR/BCJ

To:

1 The Chairman and Managing Director,A.P.S.R.T.C.,

Musheerabad,Hyderabad.

2 The Regional Manager, A.P.S.R.T.C., Cuddapah Region,

Cuddapah District.

3 Two C.D. Copies.